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N.L.H.
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PATENT
Customer Number 22,852
Attorney Docket No. 3063-0396-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
John EBY et al.) Group Art Unit: 1732
)
Application No.: 09/287,631) Examiner: A. Kuhns
)
Filed: April 7, 1999)
)
For: SURFACE COVERINGS HAVING)
A NATURAL APPEARANCE AND)
METHODS TO MAKE A)
SURFACE COVERING HAVING)
A NATURAL APPEARANCE)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

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INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)(4)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b)(4), Applicants bring to the attention of the Examiner the following information. This Information Disclosure Statement is being filed concurrently with a request for continued examination under 37 C.F.R. § 1.114 and before the mailing date of a first Office Action on the merits for the RCE.

This submission brings to the Examiner's attention information made of record in a related, pending application (Application No. 09/749,033) or additional information made of record in the assignee's on-going litigations on related U.S. patents. Accordingly, this information may be material or relevant to the patentability of the instant claims. See M.P.E.P. 2001.06(c).

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Assignee of this application, Mannington Mills of Delaware, Inc.

("Mannington") fully briefed and exhaustively responded to the allegations made by Armstrong in its Brief in Support for Partial Summary Judgment on the Issue of Validity, filed herewith. Because Mannington's Opposition Brief was filed under seal pursuant to a protective order, however, Mannington is not able to disclose it to the Patent Office. For this reason, the remarks related to invalidity of related issued claims filed herewith are incomplete in that they include only information adverse to Applicants' position.

A copy of the information available to Applicants is included herewith. Applicants respectfully request that the Examiner carefully consider each listed document and indicate that it was considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the disclosed information is material or constitutes "prior art." If the Examiner applies the information as prior art against any claim in the present application and Applicants determine that the information does not constitute "prior art" under United States law, Applicants reserve the right to present to the Patent Office the relevant facts and law regarding the appropriate status of such information.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the disclosed information, should it be applied against the claims of the present application.

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If there is any fee due in connection with the filing of this Statement, please
charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 7, 2002

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